

REFERENCE TITLE: boxing; intergovernmental tribal agreements

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2559**

Introduced by  
Representatives Burns J, Alvarez, Brown, Prezelski, Rios P, Senator Rios:  
Representatives Konopnicki, McGuire, Senators Arzberger, Flake

AN ACT

AMENDING SECTIONS 5-104, 5-104.02 AND 5-113, ARIZONA REVISED STATUTES;  
RELATING TO BOXING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 5-104, Arizona Revised Statutes, is amended to  
3 read:  
4 5-104. Racing commission; director; department; powers and  
5 duties  
6 A. The commission shall:  
7 1. Issue racing dates.  
8 2. Prepare and adopt such complete rules to govern the racing meetings  
9 as may be required to protect and promote the safety and welfare of the  
10 animals participating in such racing meetings, to protect and promote public  
11 health, safety and the proper conduct of racing and pari-mutuel wagering and  
12 any other matter pertaining to the proper conduct of racing within this  
13 state.  
14 3. Conduct hearings on applications for permits and approve permits  
15 and shall conduct such rehearings on licensing and regulatory decisions made  
16 by the director as required pursuant to rules adopted by the commission.  
17 4. Conduct all reviews of applications to construct capital  
18 improvements at racetracks as provided in this chapter.  
19 5. Adopt rules governing the proper and humane methods for the  
20 disposition and transportation of dogs by breeders, kennels or others.  
21 B. The director shall license personnel and shall regulate and  
22 supervise all racing meetings held and pari-mutuel wagering conducted in this  
23 state and cause the various places where racing meetings are held and  
24 wagering is conducted to be visited and inspected on a regular basis. The  
25 director may delegate to stewards such of the director's powers and duties as  
26 are necessary to fully carry out and effectuate the purposes of this  
27 chapter. The director shall exercise immediate supervision over the  
28 department of racing. The director is subject to ongoing supervision by the  
29 commission, and the commission may approve or reject decisions of the  
30 director in accordance with rules established by the commission.  
31 C. The commission or the department is authorized to allow stewards,  
32 with the written approval of the director, to require a jockey, apprentice  
33 jockey, sulky driver, groom, horseshoer, outrider, trainer, assistant  
34 trainer, exercise rider, pony rider, starter, assistant starter, jockey's  
35 agent, veterinarian, assistant veterinarian, cool-out, lead-out, paddock  
36 employee, security or maintenance worker, official or individual licensed in  
37 an occupational category whose role requires direct hands-on contact with  
38 horses or greyhounds, while on the grounds of a permittee, to submit to a  
39 test if the stewards have reason to believe the licensee is under the  
40 influence of or unlawfully in possession of any prohibited substance  
41 regulated by title 13, chapter 34.  
42 D. The department shall employ the services of the office of  
43 administrative hearings to conduct hearings on matters requested to be heard  
44 by the director or the commission for the department except for those  
45 rehearings that are required by the terms of this chapter to be conducted by

1 the commission. Any person adversely affected by a decision of a steward or  
2 by any other decision of the department may request a hearing on such  
3 decision. The decision of the administrative law judge becomes the decision  
4 of the director unless rejected or modified by the director within thirty  
5 days. The commission may hear any appeal of a decision of the director in  
6 accordance with title 41, chapter 6, article 10.

7 E. The department may visit and investigate the offices, tracks or  
8 places of business of any permittee and place in those offices, tracks or  
9 places of business expert accountants and such other persons as it deems  
10 necessary for the purpose of ascertaining that the permittee or any licensee  
11 is in compliance with the rules adopted pursuant to this article.

12 F. The department shall collect the fees payable for a license issued  
13 by it, as follows:

- 14 1. Occupational licenses, up to fifty dollars.
- 15 2. Owner, trainer, veterinarian, authorized agent, officials,  
16 assistant trainer, stable name renewal or kennel name renewal, up to  
17 seventy-five dollars.
- 18 3. Owner-trainer, driver, jockey, jockey agent or apprentice jockey,  
19 up to one hundred fifty dollars.
- 20 4. New stable name or new kennel name, up to five hundred dollars.
- 21 5. Duplicate license, up to five dollars.
- 22 6. Temporary license, up to fifty dollars.
- 23 7. If not licensed pursuant to paragraph 9 of this subsection with a  
24 combination license, greyhound racing kennels, up to one hundred dollars.
- 25 8. If not licensed pursuant to paragraph 9 of this subsection with a  
26 combination license, farms or other operations where greyhounds are raised  
27 for the purpose of dog racing, up to one hundred dollars.
- 28 9. Any combination of greyhound racing kennels, farms or other  
29 operations where greyhounds are raised for the purpose of dog racing, up to  
30 one hundred dollars.

31 G. The commission shall establish financial assistance procedures for  
32 promoting adoption of racing greyhounds as domestic pets and for promoting  
33 adoption of retired racehorses. The provision of financial assistance to  
34 nonprofit enterprises for the purpose of promoting adoption of racing  
35 greyhounds as domestic pets and for the purpose of promoting adoption of  
36 retired racehorses is contingent on a finding by the commission that the  
37 program presented by the enterprise is in the best interest of the racing  
38 industry and this state. Upon a finding by the commission, the commission is  
39 authorized to make grants to nonprofit enterprises whose programs promote  
40 adoption of racing greyhounds or adoption of retired racehorses. The  
41 commission shall develop an application process. The commission shall  
42 require an enterprise to report to the commission on the use of grants under  
43 this subsection. Financial assistance for nonprofit enterprises for the  
44 purpose of promoting adoption of racing greyhounds as domestic pets under  
45 this subsection shall not exceed the amount collected for license fees under

1 subsection F, paragraphs 7, 8 and 9 of this section. Financial assistance  
 2 for nonprofit enterprises that promote adoption of retired racehorses under  
 3 this subsection shall not exceed the amount of retired racehorse adoption  
 4 surcharges collected pursuant to this subsection. The commission shall  
 5 collect a retired racehorse adoption surcharge in addition to each civil  
 6 penalty assessed in connection with horse or harness racing pursuant to this  
 7 article. The amount of the retired racehorse adoption surcharge shall be  
 8 five per cent of the amount collected for each applicable civil penalty.

9 H. A license is valid for the period established by the commission,  
 10 but not to exceed three years, except for a temporary license issued pursuant  
 11 to section 5-107.01, subsection F. The licensing period for horse racing  
 12 shall begin July 1. The licensing period for greyhound racing shall begin  
 13 February 1.

14 I. Upon application in writing by an objector to any decision of track  
 15 stewards, made within three days after the official notification to the  
 16 objector of the decision complained of, the department or administrative law  
 17 judge shall review the objection. In the case of a suspension of a license  
 18 by the track stewards, such suspension shall commence at once and run for a  
 19 period of not more than sixty days. Before the end of this suspension  
 20 period, filing an application for review is not cause for reinstatement. If  
 21 at the end of this suspension period the department or administrative law  
 22 judge has not held a hearing to review the decision of the stewards, the  
 23 suspended license shall be reinstated until such time as the department or  
 24 administrative law judge holds a hearing to review the objection. Except as  
 25 provided in section 41-1092.08, subsection H, a final decision of the  
 26 commission is subject to judicial review pursuant to title 12, chapter 7,  
 27 article 6.

28 J. The commission or the director may issue subpoenas for the  
 29 attendance of witnesses and the production of books, records and documents  
 30 relevant and material to a particular matter before the commission or  
 31 department. Such subpoenas shall be served and enforced in accordance with  
 32 title 41, chapter 6, article 10.

33 K. Any member of the commission, the administrative law judge or the  
 34 director or the director's designee may administer oaths, and such oaths  
 35 shall be administered to any person who appears before the commission to give  
 36 testimony or information pertaining to matters before the commission.

37 L. The commission shall adopt rules which require permittees to retain  
 38 for three months all official race photographs and videotapes. The  
 39 department shall retain all such photographs and videotapes which are used as  
 40 evidence in an administrative proceeding until the conclusion of the  
 41 proceeding and any subsequent judicial proceeding. All photographs and  
 42 videotapes must be available to the public on request, including photographs  
 43 and videotapes of races concerning which an objection is made, regardless of  
 44 whether the objection is allowed or disallowed.

1 M. The director may establish a management review section for the  
2 development, implementation and operation of a system of management reports  
3 and controls in major areas of department operations, including licensing,  
4 work load management and staffing, and enforcement of the provisions of this  
5 article and the rules of the commission.

6 N. In cooperation with the department of public safety, the director  
7 shall establish a cooperative fingerprint registration system. Each  
8 applicant for a license or permit under this article or any other person who  
9 has a financial interest in the business or corporation making the  
10 application shall submit to fingerprint registration as part of the  
11 background investigation conducted pursuant to section 5-108. The  
12 cooperative fingerprint registration system shall be maintained in an updated  
13 form using information from available law enforcement sources and shall  
14 provide current information to the director upon request as to the fitness of  
15 each racing permittee and each racing licensee to engage in the racing  
16 industry in this state.

17 O. The director shall develop and require department staff to use  
18 uniform procedural manuals in the issuance of any license or permit under  
19 this article and in the enforcement of this article and the rules adopted  
20 under this article.

21 P. The director shall submit an annual report containing such  
22 operational and economic performance information as is necessary to evaluate  
23 the department's budget request for the forthcoming fiscal year to the  
24 governor, the speaker of the house of representatives, the president of the  
25 senate and the Arizona state library, archives and public records no later  
26 than September 30 each year. The annual report shall be for the preceding  
27 fiscal year and contain such performance information as:

28 1. The total state revenues for the previous fiscal year from the  
29 overall pari-mutuel handle with an itemization for each dog racing meeting,  
30 each horse racing meeting, each harness racing meeting and each additional  
31 wagering facility.

32 2. The total state revenues for the previous fiscal year from the  
33 regulation of racing, including licensing fees assessed pursuant to  
34 subsection F of this section and monetary penalties assessed pursuant to  
35 section 5-108.02.

36 3. The amount and use of capital improvement funds pursuant to  
37 sections 5-111.02 and 5-111.03 which would otherwise be state revenues.

38 4. The number of licenses and permits issued, renewed, pending and  
39 revoked during the previous fiscal year.

40 5. The investigations conducted during the previous fiscal year and  
41 any action taken as a result of the investigations.

42 6. The department budget for the immediately preceding three fiscal  
43 years, including the number of full-time, part-time, temporary and contract  
44 employees, a statement of budget needs for the forthcoming fiscal year and a  
45 statement of the minimum staff necessary to accomplish these objectives.

1           7. Revenues generated for this state for the preceding fiscal year by  
2 persons holding horse, harness and dog racing permits.

3           8. Recommendations for increasing state revenues from the regulation  
4 of the racing industry while maintaining the financial health of the industry  
5 and protecting the public interest.

6           Q. The commission may certify animals as Arizona bred or as Arizona  
7 stallions. The commission may delegate this authority to a breeders'  
8 association it contracts with for these purposes. The commission may  
9 authorize the association, racing organization or department to charge and  
10 collect a reasonable fee to cover the cost of breeding or ownership  
11 certification or transfer of ownership for racing purposes.

12           R. The department has responsibility for the collection and accounting  
13 of revenues for the state boxing commission including, but not limited to,  
14 licensing fees required by section 5-230, the levy of the tax on gross  
15 receipts imposed by section 5-104.02, RECEIPTS DERIVED FROM INTERGOVERNMENTAL  
16 AGREEMENTS WITH INDIAN TRIBES AUTHORIZED BY SECTION 5-224, SUBSECTION F and  
17 cash deposited pursuant to section 5-229. All revenues collected pursuant to  
18 this subsection, from whatever source, shall be reported and deposited  
19 pursuant to section 5-104.02, subsection C. The director shall adopt rules  
20 as necessary to accomplish the purposes of this subsection and chapter 2,  
21 article 2 of this title.

22           S. The commission may obtain the services of the office of  
23 administrative hearings on any matter which the commission is empowered to  
24 hear.

25           T. The department may adopt rules pursuant to title 41, chapter 6 to  
26 carry out the purposes of this article, ensure the safety and integrity of  
27 racing in this state and protect the public interest.

28           Sec. 2. Section 5-104.02, Arizona Revised Statutes, is amended to  
29 read:

30           5-104.02. Levy of tax on gross receipts; disposition;  
31 verification and financial audit; definition

32           A. Any person who promotes a boxing contest in this state pursuant to  
33 chapter 2, article 2 of this title shall comply with rules of the director  
34 adopted pursuant to section 5-104 and shall within ten days after the contest  
35 pay to the department four per cent of the gross receipts, after the  
36 deduction of city, state and federal taxes, of such match or exhibition.

37           B. The department shall verify the gross receipts of a contest. The  
38 director may require a person or corporation licensed under chapter 2,  
39 article 2 of this title to supply a certified financial audit to the  
40 department. The director shall adopt rules that require each person or  
41 corporation licensed under chapter 2, article 2 of this title to select a  
42 certified public accountant to conduct the financial audit. The financial  
43 statements prepared pursuant to this section shall be prepared in accordance  
44 with generally accepted accounting principles and shall include any  
45 additional schedules the director may require. A person subject to a

1 financial audit under this section shall afford reasonable and needed  
2 facilities and make returns and exhibits to the department in the form and at  
3 the time prescribed by the director.

4 C. At the end of each month the director shall report to the  
5 department of administration the total amount received under chapter 2,  
6 article 2 of this title from all sources, ~~including license fees~~ EXCEPT  
7 INTERGOVERNMENTAL AGREEMENTS WITH INDIAN TRIBES, and shall deposit it,  
8 pursuant to sections 35-146 and 35-147, in the state general fund. THE  
9 DIRECTOR SHALL DEPOSIT RECEIPTS DERIVED FROM INTERGOVERNMENTAL AGREEMENTS  
10 WITH INDIAN TRIBES PURSUANT TO SECTION 5-113, SUBSECTION A.

11 D. A promoter may issue complimentary tickets that are exempt from  
12 taxation pursuant to this title. If a promoter issues complimentary tickets,  
13 the exemption from taxation applies to two per cent of the total number of  
14 tickets issued for the event or seventy-five tickets, whichever is greater.

15 E. ~~As used in~~ FOR THE PURPOSES OF this section, "gross receipts" means  
16 all receipts from the face value of tickets sold.

17 Sec. 3. Section 5-113, Arizona Revised Statutes, is amended to read:

18 5-113. Disposition of revenues and monies; funds; committee

19 A. All revenues derived from INTERGOVERNMENTAL AGREEMENTS WITH INDIAN  
20 TRIBES, ALL REVENUES DERIVED FROM permittees, permits and licenses, as  
21 provided by this article, and all monies transferred pursuant to section  
22 44-313, subsection A shall be deposited, pursuant to sections 35-146 and  
23 35-147, or distributed as follows:

24 1. One million two hundred thousand dollars or twenty-two per cent,  
25 whichever is less, shall be deposited in the Arizona county fairs racing  
26 betterment fund established by subsection B of this section.

27 2. One million eight hundred thousand dollars or thirty-three per  
28 cent, whichever is less, shall be deposited in the county fairs livestock and  
29 agriculture promotion fund established by subsection C of this section.

30 3. One million two hundred thousand dollars or twenty-two per cent,  
31 whichever is less, shall be deposited in the Arizona breeders' award fund  
32 established by subsection F of this section.

33 4. Sixty thousand dollars or one per cent, whichever is less, shall  
34 be deposited in the Arizona stallion award fund established by subsection G  
35 of this section.

36 5. Four hundred fifty thousand dollars or nine per cent, whichever is  
37 less, shall be deposited in the county fair racing fund established by  
38 subsection I of this section.

39 6. One per cent of the revenues and monies shall be deposited in the  
40 agricultural consulting and training fund established by subsection J of this  
41 section.

42 7. Sixty-seven thousand dollars or one per cent, whichever is less,  
43 shall be subject to legislative appropriation to the department for  
44 administration of the Arizona county fairs racing betterment fund, the  
45 Arizona breeders' award fund, the Arizona stallion award fund and the

1 greyhound adoption fund. Monies that are distributed pursuant to this  
2 paragraph and that remain unspent at the end of a fiscal year do not revert  
3 to the state general fund.

4 8. Four hundred thousand dollars or eleven per cent, whichever is  
5 less, shall be deposited in the Arizona exposition and state fair fund  
6 established by section 3-1005 for the purpose of capital outlay.

7 9. Any revenues and monies that are not distributed pursuant to  
8 paragraphs 1 through 8 of this subsection at the end of a fiscal year shall  
9 be deposited in the state general fund.

10 10. MONIES THAT ARE DERIVED FROM INTERGOVERNMENTAL AGREEMENTS WITH  
11 INDIAN TRIBES SHALL BE AVAILABLE TO THE DEPARTMENT FOR THE ADMINISTRATION AND  
12 REGULATION OF SANCTIONED EVENTS RESULTING FROM INTERGOVERNMENTAL AGREEMENTS  
13 WITH INDIAN TRIBES. MONIES THAT ARE DERIVED FROM INTERGOVERNMENTAL  
14 AGREEMENTS WITH INDIAN TRIBES PURSUANT TO THIS PARAGRAPH ARE EXEMPT FROM THE  
15 PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

16 B. The Arizona county fairs racing betterment fund is established  
17 under the jurisdiction of the department. The department shall distribute  
18 monies from the fund to the county fair association or county fair racing  
19 association of each county conducting a county fair racing meeting in such  
20 proportion as the department deems necessary for the promotion and betterment  
21 of county fair racing meetings. All expenditures from the fund shall be made  
22 upon claims approved by the department. In order to be eligible for  
23 distributions from the fund, a county fair association must provide the  
24 department with an annual certification in the form required by the  
25 department supporting expenditures made from the fund. Balances remaining in  
26 the fund at the end of a fiscal year do not revert to the state general fund.

27 C. The county fairs livestock and agriculture promotion fund is  
28 established under the control of the governor and shall be used for the  
29 purpose of promoting the livestock and agricultural resources of the state  
30 and for the purpose of conducting an annual Arizona national livestock fair  
31 by the Arizona exposition and state fair board to further promote livestock  
32 resources. The direct expenses less receipts of the livestock fair shall be  
33 paid from this fund, but such payment shall not exceed thirty per cent of the  
34 receipts of the fund for the preceding fiscal year. Balances remaining in the  
35 fund at the end of a fiscal year do not revert to the state general  
36 fund. All expenditures from the fund shall be made upon claims approved by  
37 the governor, as recommended by the livestock and agriculture committee, for  
38 the promotion and betterment of the livestock and agricultural resources of  
39 this state. The livestock and agriculture committee is established and shall  
40 be composed of the following members, at least three of whom are from  
41 counties that have a population of less than five hundred thousand persons,  
42 appointed by the governor:

- 43 1. Three members representing county fairs.
- 44 2. One member representing Arizona livestock fairs.

- 1           3. One member representing the university of Arizona college of  
2 agriculture.
- 3           4. One member representing the livestock industry.
- 4           5. One member representing the farming industry.
- 5           6. One member representing the governor's office.
- 6           7. One member representing the Arizona state fair conducted by the  
7 Arizona exposition and state fair board.
- 8           8. One member representing the general public.
- 9           D. The governor shall appoint a chairman from the members. Terms of  
10 members shall be four years.
- 11           E. Members of the committee are not eligible to receive compensation  
12 but are eligible to receive reimbursement for expenses pursuant to title 38,  
13 chapter 4, article 2.
- 14           F. The Arizona breeders' award fund is established under the  
15 jurisdiction of the department. The department shall distribute monies from  
16 the fund to the breeder, or the breeder's heirs, devisees or successors, of  
17 every winning horse or greyhound foaled or whelped in this state, as defined  
18 by section 5-114, in a manner and in an amount established by rules of the  
19 commission to protect the integrity of the racing industry and promote,  
20 improve and advance the quality of race horse and greyhound breeding within  
21 this state. The department may contract with a breeders' association to  
22 provide data, statistics and other information necessary to enable the  
23 department to carry out the purposes of this subsection. Persons who are not  
24 eligible to be licensed under section 5-107.01 or persons who have been  
25 refused licenses under section 5-108 are not eligible to participate in the  
26 Arizona greyhound breeders' award fund. Balances remaining in the fund at  
27 the end of a fiscal year do not revert to the state general fund. For the  
28 purposes of this subsection, "breeder" means the owner or lessee of the dam  
29 of the animal at the time the animal was foaled or whelped.
- 30           G. The Arizona stallion award fund is established under the  
31 jurisdiction of the department to promote, improve and advance the quality of  
32 stallions in this state. The department shall distribute monies from the  
33 fund to the owner or lessee, or the owner's or lessee's heirs, devisees or  
34 successors, of every Arizona stallion whose certified Arizona bred offspring,  
35 as prescribed in section 5-114, finishes first, second or third in an  
36 eligible race in this state. The department may contract with a breeders'  
37 association to provide data, statistics and other information necessary to  
38 enable the department to carry out the purposes of this subsection. Balances  
39 remaining in the fund at the end of a fiscal year do not revert to the state  
40 general fund. The commission shall adopt rules pursuant to title 41, chapter  
41 6 to carry out the purposes of this subsection. The rules shall prescribe at  
42 a minimum:
- 43           1. The manner and procedure for distribution from the fund, including  
44 eligibility requirements for owners and lessees.

1           2. Subject to availability of monies in the fund, the amount to be  
2 awarded.

3           3. The requirements for a stallion registered with the jockey club,  
4 Lexington, Kentucky or with the American quarter horse association, Amarillo,  
5 Texas to be certified as an Arizona stallion.

6           4. The types and requirements of races for which an award may be made.

7           H. The greyhound and retired racehorse adoption fund is  
8 established. The department shall administer the fund and maintain separate  
9 accounts for greyhound adoptions and retired racehorse adoptions. All  
10 revenues derived from license fees collected from dog breeders, racing  
11 kennels and other operations pursuant to section 5-104, subsection F,  
12 paragraphs 7, 8 and 9 shall be deposited, pursuant to sections 35-146 and  
13 35-147, in the greyhound adoption account of the fund. All revenues derived  
14 from retired racehorse adoption surcharges collected pursuant to section  
15 5-104, subsection G shall be deposited, pursuant to sections 35-146 and  
16 35-147, in the retired racehorse adoption account of the fund. The  
17 department shall distribute monies from the fund to provide financial  
18 assistance to nonprofit enterprises approved by the commission to promote the  
19 adoption of former racing greyhounds as domestic pets and to promote the  
20 adoption of retired racehorses pursuant to section 5-104, subsection G in a  
21 manner and in an amount established by rules of the commission. Balances  
22 remaining in the fund at the end of a fiscal year do not revert to the state  
23 general fund.

24           I. The county fair racing fund is established. The department shall  
25 administer the fund. Subject to legislative appropriation, the department  
26 shall use fund monies for the administration of county fair racing. Any  
27 monies remaining unexpended in the fund at the end of the fiscal year in  
28 excess of seventy-five thousand dollars shall revert to the state general  
29 fund.

30           J. The agricultural consulting and training fund is established. The  
31 Arizona department of agriculture shall administer the fund. Subject to  
32 legislative appropriation, the Arizona department of agriculture shall use  
33 monies in the fund for the agricultural consulting and training program  
34 established by section 3-109.01. Balances remaining in the fund at the end  
35 of a fiscal year do not revert to the state general fund.